

NINETEENTH JUDICIAL DISTRICT COURT  
PARISH OF EAST BATON ROUGE  
STATE OF LOUISIANA

NUMBER: 499-737

DIVISION: D

J. ROBERT WOOLEY, AS  
ACTING COMMISSIONER OF INSURANCE  
FOR THE STATE OF LOUISIANA  
VERSUS  
AMCARE HEALTH PLANS OF LOUISIANA, INC.

FILED: \_\_\_\_\_

\_\_\_\_\_  
DEPUTY CLERK

**MOTION AND INCORPORATED MEMORANDUM REQUESTING  
APPROVAL OF SETTLEMENT OF THOSE CLAIMS ASSERTED IN THE  
LAWSUIT PENDING IN FEDERAL COURT IN OKLAHOMA INVOLVING  
MEDIMPACT HEALTHCARE SYSTEMS, INC. AND FOR AUTHORITY  
TO FILE PROPOSED SETTLEMENT AGREEMENT UNDER SEAL**

NOW INTO COURT through undersigned counsel comes James J. Donelon, Commissioner of Insurance for the State of Louisiana in his capacity as Liquidator of AmCare Health Plans of Louisiana, Inc. In Liquidation ("AmCare-LA"), through Marlon V. Harrison, the Court-appointed Receiver for AmCare-La (the "Receiver") who respectfully represents that:

1.

AmCare-LA was a Louisiana health maintenance organization ("HMO") that was placed by order of this honorable Court in rehabilitation in September 2002, and subsequently placed in liquidation by order of this honorable Court in December 2002, and the Receiver was appointed by the Court pursuant to those orders.

2.

The order of rehabilitation and the subsequent order of liquidation for AmCare-LA entered by this Court authorized the Receiver, inter alia, to commence whatever legal actions were necessary, and to collect all sums and debts that were economically feasible to collect, to accomplish the liquidation of AmCare-LA.

3.

AmCare Health Plans of Texas, Inc. and AmCare Management, Inc. (collectively "AmCare-TX") were placed receivership by order of the 200<sup>th</sup> Judicial District Court for Travis County, Texas, in case number GV 204523, on January 21, 2003 and Jean Johnson appointed special deputy receiver

4.

AmCare Health Plans of Oklahoma, Inc. ("AmCare-OK") was placed in receivership by order of the District Court for Oklahoma County, Oklahoma, in case number CJ-2003-5311, on July 8, 2003 and the Insurance Commissioner for the State of Oklahoma, was appointed receiver.

5.

The AmCare HMOs all received pharmacy benefit services through a single service agreement (the "Service Agreement") with a pharmacy benefit manager (PBM), Med Impact Healthcare Services, Inc. ("Med Impact").

6.

At the time of the entry of the liquidation order in this matter, the Court was advised of the role of Med Impact as the pharmacy benefit provider for AmCare-LA, through the date that all certificates of coverage, insurance policies, binders, and endorsements were canceled by order of this Court.

7.

The AmCare HMOs had a single common Service Agreement with Med Impact with an effective date of October 1, 1999.

8.

Pursuant to the Service Agreement, Med Impact contracted with pharmacies to assist in the provision of prescription services to eligible members and subscribers of the AmCare HMOs.

9.

In October 2003 MedImpact filed a proof of claim with AmCare-LA alleging that Three Hundred Twenty Five Thousand Seven Hundred seventy-six and 56/100 (\$325,776.56) Dollars was due from AmCare-LA to MedImpact based on pharmacy benefits provided.

10.

Thereafter the Receiver filed a petition and rule to consider the report of the Receiver on claims against AmCare Health Plans of Louisiana, Inc. In Liquidation and Recommendations to the Court on the Priority and Amount of Allowance of Claims. By order of the Court dated August 15, 2005, the Court set a deadline of December 15, 2005 for any AmCare-La claimant who filed a proof of claim and who objected to the allowed amounts of their claim to file a written objection of the amount allowed by the AmCare-La Receiver with the Court and with the AmCare-La Receiver.

11.

As to the adjudication and determination of the MedImpact proof of claim, the matter was set for hearing but continued without date by agreement of AmCare-LA and MedImpact and this Court, in order to allow more time to attempt to resolve the differences as to the pharmacy benefits provided to AmCare-LA by MedImpact.

12.

The adjudication and determination of MedImpact's proof of claim against AmCare-LA is still pending before the Court.

13.

In April 2006, following authorization from this Court, the AmCare-LA Receiver commenced an action in Oklahoma state court, in conjunction with the Receiver for AmCare-Ok, against MedImpact, in suit number CJ 2006-2944, entitled "*State of Oklahoma, ex rel, Kim Holland, Commissioner of Insurance for the State of Oklahoma, as Receiver for AmCare Health Plans of Oklahoma, Inc., and James J. Donelon, Acting Commissioner of Insurance for the State of Louisiana, in his capacity as Liquidator of AmCare Health Plans of Louisiana, Inc., in Liquidation v. MedImpact Healthcare Systems, Inc.*", to recover for certain overcharges for prescription drug benefits by MedImpact to AmCare members, pursuant to the terms of a service agreement between MedImpact, and AmCare-OK and AmCare-LA.

14.

That suit was subsequently removed to the United States District Court for the Western District of Oklahoma, in case number CIV0-6-529-T (the "Oklahoma federal court suit").

15.

MedImpact and the Receivers have discussed a proposed settlement which would encompass all claims of AmCare-OK and all claims of AmCare-LA against MedImpact asserted in the pending Oklahoma federal court suit as to the alleged overcharges by MedImpact, and which would treat the MedImpact proof of claim in the AmCare-LA liquidation proceeding as a timely filed general creditor claim, but the amount of the MedImpact proof of claim will be subject to adjudication by the AmCare-LA Receiver and determination by this Court in this proceeding.

16.

In connection with the proposed settlement of the claims asserted on behalf of the AmCare-LA and AmCare-Ok Receivers against MedImpact in the pending Oklahoma federal court suit, MedImpact has denied the allegations made, but agrees that MedImpact is willing to enter into a settlement agreement to avoid the time and expense of protracted litigation involving complex issues related to Med Impact's role as pharmacy benefits manager for AmCare-OK and AmCare-LA.

17.

In connection with the proposed settlement of the Oklahoma federal court suit, MedImpact has agreed to pay AmCare-LA a sum certain, as reflected in proposed settlement agreement, a copy of which is attached hereto and marked as **Exhibit A**, which proposed agreement is filed under seal with this Court herewith.

18.

The Receiver believes that the proposed settlement is in the best interest of the AmCare-LA estate, will efficiently marshal the property and assets of the AmCare-LA estate, and will further the goals identified in the order of liquidation entered by this Court in this matter.

19.

The Receiver submits to the Court that the terms of the proposed settlement constitute a fair and reasonable settlement of the claims asserted by AmCare-LA in the Oklahoma federal court suit, that the funds received pursuant to the proposed settlement will be used by AmCare-LA in accordance with procedures utilized in this proceeding, as well as for attorneys fees and costs and related expenses arising out of the pending Oklahoma federal court suit filed against MedImpact, that the settlement is intended to resolve all claims involving MedImpact, other than those matters related to Med Impact's proof of claim in this liquidation proceeding, which are still to be adjudicated and resolved, and that the settlement terms, under all applicable circumstances, are in the best interests of the creditors and other persons affected by the settlement and the liquidation of AmCare-LA through these proceedings.

Pursuant to the terms of the proposed settlement, the Receiver desires and is entitled to an order of this Court finding that the settlement is fair and equitable to, and resolution of the dispute is in, the best interests of all interested parties and claimants (including all creditors, members, subscribers and policyholders of AmCare-LA), and the public; that the Receiver has specific authority to release all claims pursuant to the terms of the proposed settlement and to dismiss the claims asserted against MedImpact in the pending Oklahoma federal court suit; that the Receiver has specific authority to execute the proposed settlement agreement; that all creditors, claimants, and interested persons of AmCare-LA are and will be bound by the proposed settlement; and a declaration from this Court that the claims of AmCare-LA will be deemed released as a result of this Court's finding of the fairness of the proposed settlement and approval of the proposed settlement, other than those pending matters related to Med Impact's proof of claim in the liquidation proceeding, which are still to be adjudicated and resolved.

The Receiver further requests that this Court order that Med Impact be required to make all payments due under the terms of the Settlement Agreement within fifteen (15) days of the date MedImpact is provided with a copy, either by United States mail, fax, or electronic transmission, of the order approving the proposed settlement signed by AmCare-Oklahoma and the AmCare-Louisiana Receivership Courts.

The Receiver further requests notice of this motion and order and the Court's ruling be given by posting a copy of this motion and order and the Court's ruling on the Louisiana Department of Insurance website at [www.lidi.la.gov](http://www.lidi.la.gov); Office Directory; Receivership; Domestic Receivers in receivership-Open; AmCare Health Plans of Louisiana, Receivership Pleadings, and that such be deemed sufficient notice to all interested persons or entities.

The Receiver requests that the judgment rendered as to the proposed settlement be certified as a final judgment for purposes of appeal by this Court for the reasons that the judgment as prayed for will dismiss all claims of AmCare-LA against MedImpact asserted in the pending Oklahoma federal court suit with prejudice and there is no just reason for delay since this will resolve the

pending Oklahoma federal court suit against MedImpact, in accordance with Louisiana Code of Civil Procedure article 1915, reserving all rights as to all matters related to Med Impact's proof of claim in the liquidation proceeding, which are still to be adjudicated and resolved.

24.

The Receiver further requests that the proposed agreement, **Exhibit A**, be filed under seal in this matter.

WHEREFORE, Marlon V. Harrison, Receiver for AmCare-LA, prays that this motion be deemed good and sufficient and that this honorable Court approve the proposed settlement with MedImpact, and authorize the Receiver to enter into the proposed settlement agreement, as reflected in **Exhibit A**, and to sign such documents, to take such actions as may be required to accomplish the proposed settlements, and to implement same, in the sole discretion of the Receiver.

The Receiver further prays that the Court make a finding that (1) that the settlement is fair and equitable to, and resolution of the dispute is in the best interests of, all interested parties and claimants (including all creditors, members, subscribers and policyholders of AmCare-LA) and the public; (2) that the Receiver has specific authority to release all claims pursuant to the terms of the proposed settlement agreement and to dismiss the claims asserted against MedImpact in the pending Oklahoma federal court suit; (3) that the Receiver has specific authority to execute the settlement agreement; (4) that all creditors, claimants, and interested persons of AmCare-LA are and will be bound by the proposed settlement agreement, and (5) and a declaration from this Court declaring that the claims of AmCare-LA will be deemed released as a result of this Court's finding of the fairness of the proposed settlement and approval of the proposed settlement, other than those matters related to Med Impact's proof of claim in the liquidation proceeding, which are still to be adjudicated and resolved.

The Receiver further prays that Med Impact be required to make all payments due under the terms of the Settlement Agreement within fifteen (15) days of the date MedImpact is provided with a copy, either by United States mail, fax, or electronic transmission, of the order approving the proposed settlement signed by AmCare-Oklahoma and the AmCare-Louisiana Receivership Courts.



The Receiver further prays that the Court order that the proposed settlement agreement, **Exhibit A**, be filed under seal in this matter.

The Receiver further prays that notice of this motion and order and the Court's ruling be given by posting a copy of this motion and order and the Court's ruling on the Louisiana Department of Insurance website at [www.lidi.la.gov](http://www.lidi.la.gov); Office Directory; Receivership; Domestic Receivers in receivership-Open; AmCare Health Plans of Louisiana; Receivership Pleadings, and that such be deemed sufficient notice to all interested persons or entities, and that the judgment rendered as to the proposed settlements be certified as a final judgment for purposes of appeal by this Court for the reasons that the judgment as prayed for will dismiss all claims of AmCare-LA against MedImpact in the Oklahoma federal court suit, other than those matters related to MedImpact's proof of claim in the liquidation proceeding, which are still to be adjudicated and resolved, and there is no just reason for delay, in accordance with Louisiana Code of Civil Procedure article 1915, and for all other appropriate relief.

RESPECTFULLY SUBMITTED,

BY ATTORNEYS FOR

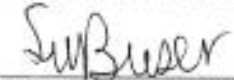
James J. Donelon

Commissioner of Insurance for the State of Louisiana

in his capacity as Liquidator of AmCare Health Plans of Louisiana, Inc.

through the Court-appointed Receiver, Marlon V. Harrison

**BURGLASS & TANKERSLEY, LLC**



Sue Buser (#18151)

5213 Airline Drive

Metairie, Louisiana 70001-5602

Phone: (504) 836-2220

Telefax: (504) 836-2221

NINETEENTH JUDICIAL DISTRICT COURT  
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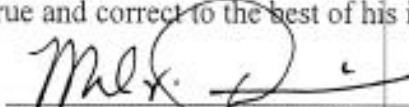
STATE OF LOUISIANA  
PARISH OF EAST BATON ROUGE

BEFORE ME, the undersigned Notary Public, duly commissioned in and for the state and  
parish aforesaid, personally came and appeared:

**MARLON V. HARRISON**

who, being duly sworn, did depose and affirm that:

1. He has personal first hand knowledge concerning the lawsuit against MedImpact Healthcare Systems, Inc. ("MedImpact") pending in the Oklahoma federal court in the suit entitled "*State of Oklahoma, ex rel, Kim Holland, Commissioner of Insurance for the State of Oklahoma, as Receiver for AmCare Health Plans of Oklahoma, Inc., and James J. Donelon, Acting Commissioner of Insurance for the State of Louisiana, in his capacity as Liquidator of AmCare Health Plans of Louisiana, Inc., in Liquidation v. MedImpact Healthcare Systems, Inc.*", suit number CIV-06-529-T.
2. He is the Court-appointed Receiver for AmCare Health Plans of Louisiana, Inc., in Liquidation ("AmCare-LA").
3. He has personally reviewed the files of AmCare-LA and has personal knowledge of the agreements with MedImpact.
4. He has read the motion and incorporated memorandum requesting approval of settlement of the claims involving MedImpact filed on behalf of AmCare-LA in suit number CIV-06-529-T and all the allegations therein are true and correct to the best of his information.
5. He has read the proposed settlement agreement with MedImpact.
6. Based on his understanding of all of the issues involved in the pending Oklahoma federal suit against MedImpact, he recommends the proposed settlement as being in the best interests of the policyholders and creditors of AmCare-LA and the public.
7. On behalf of AmCare-LA all matters related to MedImpact's proof of claim in the AmCare-LA liquidation proceeding are reserved and are still to be adjudicated and resolved.
8. The above is true and correct to the best of his information.

  
MARLON V. HARRISON

Receiver for AmCare Health Plans of Louisiana, Inc. In Liquidation

Sworn to and subscribed before me, Notary, this 20 day of April, 2008.

  
NOTARY PUBLIC #18151

Sue Buser  
NOTARY PUBLIC  
State of Louisiana  
LSBA No. 18151  
My Commission is Issued for Life



NINETEENTH JUDICIAL DISTRICT COURT

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FILED: \_\_\_\_\_

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**ORDER**

Considering the foregoing Motion and Incorporated Memorandum Requesting Approval of Settlement of Those Claims Asserted in the Lawsuit Pending in Federal Court in Oklahoma Involving MedImpact Healthcare Systems, Inc. and for Authority to File Proposed Settlement Agreement Under Seal, filed on behalf of AmCare Health Plans of Louisiana, Inc. In Liquidation, and the Court finding that the parties are entitled to the relief granted:

**IT IS ORDERED, ADJUDGED AND DECREED** that the Motion Requesting Approval of Settlement of Those Claims Asserted in the Lawsuit Pending in Federal Court in Oklahoma Involving MedImpact Healthcare Systems, Inc. and for Authority to File Proposed Settlement Agreement Under Seal, be and same hereby is GRANTED.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the proposed settlement with MedImpact Healthcare Systems, Inc. in the suit entitled, "*State of Oklahoma, ex rel, Kim Holland, Commissioner of Insurance for the State of Oklahoma, as Receiver for AmCare Health Plans of Oklahoma, Inc., and James J. Donelon, Acting Commissioner of Insurance for the State of Louisiana, in his capacity as Liquidator of AmCare Health Plans of Louisiana, Inc., in Liquidation v. MedImpact Healthcare Systems, Inc.*" case number CIV-06-529-T (the "pending federal court lawsuit"), be and hereby is APPROVED.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the proposed settlement agreement, **Exhibit A**, be filed under seal in this matter, until further order of this Court.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the Receiver for AmCare Health Plans of Louisiana, Inc. In Liquidation be and hereby is authorized to enter into the proposed settlement agreement with MedImpact Healthcare Systems, Inc., as reflected in the proposed agreement attached as **Exhibit A**, and to sign such documents, to take such actions as may be required to accomplish the settlement, and to implement same, in the sole discretion of the Receiver.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the settlement is fair and equitable to, and resolution of the dispute is in, the best interests of all interested parties and claimants (including all creditors, members, subscribers and policyholders of AmCare-LA) and the public; that the Receiver has specific authority to release all claims pursuant to the terms of the proposed settlement agreement, as reflected in the proposed agreement attached as **Exhibit A**, and to dismiss the claims asserted against MedImpact Healthcare Systems, Inc. in the pending federal court lawsuit; that the Receiver has specific authority to execute the settlement agreements, as reflected in the proposed agreement attached as **Exhibit A**; that all creditors, claimants, and interested persons of AmCare Health Plans of Louisiana, Inc. In Liquidation are and will be bound by the settlement agreement, and that the claims of AmCare Health Plans of Louisiana, Inc. In Liquidation against MedImpact Healthcare Systems, Inc. in the federal court suit, as reflected in the proposed agreement attached as **Exhibit A**, be and hereby are deemed released as a result of this Court's finding of the fairness of the settlement and this Court's approval of the settlement, other than those matters related to Med Impact's proof of claim in the liquidation proceeding, which are still to be adjudicated and resolved.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that Med Impact be and it hereby is required to make all payments due under the terms of the Settlement Agreement within fifteen (15) days of the date MedImpact is provided with a copy, either by United States mail, fax, or electronic transmission, of the order approving the proposed settlement signed by AmCare-Oklahoma and the AmCare-Louisiana Receivership Courts.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that notice of this motion and order and the Court's ruling be given by posting a copy of this motion and order and the Court's ruling on the Louisiana Department of Insurance website at [www.lidi.la.gov](http://www.lidi.la.gov); Office Directory; Receivership; Domestic Receivers in receivership-Open; AmCare Health Plans of Louisiana; Receivership Pleadings, and that such notice shall be deemed sufficient notice to all interested persons or entities.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that the motion of the Receiver to certify this judgment as a final judgment pursuant to Louisiana Code of Civil Procedure article 1915 be and hereby is granted and this judgment is certified as a final judgment for purposes of appeal.

The Court, in accordance with Louisiana Civil Code Article 1915, designates this as a final judgment by the Court after an express determination that there is no just reason for delay since the judgment rendered by the Court herein dismisses all claims in the pending federal lawsuit as to MedImpact Healthcare Systems, Inc.

**THUS DONE AND SIGNED** this 22 day of April, 2008 at

Baton Rouge, Louisiana.

  
JUDGE JANICE CLARK, NINETEENTH JUDICIAL DISTRICT COURT

**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a copy of the above and foregoing document has been forwarded via First Class Mail, postage prepaid and properly addressed, to the following:

Kenneth N. Russak  
Frandzel, Robins, Bloom & Csato  
6500 Wilshire Boulevard  
17<sup>th</sup> Floor  
Los Angeles, CA 90048-4920

Michael Charles Guy  
Assistant Attorney General  
Public Protection Division  
Insurance Section  
1885 North 3<sup>rd</sup> Street  
Baton Rouge, LA 70802

Andrew D. Downing  
Rhodes, Hieronymus,  
One ONEOK Plaza  
400 West Fifth Street  
Suite 400  
Tulsa, OK 74103-4287

on this 21<sup>st</sup> day of April, 2008.

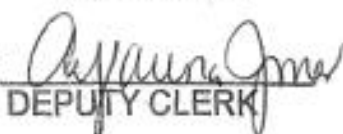


**CERTIFIED  
TRUE COPY**

APR 22 2009

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BY

  
DEPUTY CLERK

NINETEENTH JUDICIAL DISTRICT COURT  
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**EXHIBIT A**

**FILED UNDER SEAL**